IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3747 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ASHOKBHAI GORDHANBHAI PATEL

Versus

SECRETARY

Appearance:

MR MURALI N DEVNANI for the Petitioner.

Mr.Sheth, Assistant GOVERNMENT PLEADER,

for Respondent No. 1-2-4

MR KV GADHIA for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 12/12/2003

ORAL JUDGEMENT

1. By filing this petition, the petitioner has prayed for an appropriate writ, to quash and set aside the decision dated 21.12.1996, passed by the State

Government, and to direct respondent No.4 to file appropriate proceedings against the order dated 23.8.1996 passed in Criminal Revision Application No.30 of 1995 against respondent No.3-Company. It is also prayed that respondent No.3 may be directed to reinstate the petitioner in service with full back wages as per the award passed by the Labour Court, Nadiad in Reference (LCN) No.65 of 1985.

2. The concerned workman was serving with the aforesaid respondent No.3-Company when his services were alleged to have been illegally terminated by the Company. He, therefore, raised an Industrial Dispute, in which the Labour Court, Nadiad passed an Award dated 1.11.1988. The Labour Court, by the aforesaid order dated 1.11.1988, directed the Company to reinstate the concerned workman on his original post. Since the said Award was ex parte, respondent No.3 preferred an application, being Miscellaneous Application No.3 of 1989 for setting aside the ex parte Award. The said application was rejected by the Labour Court. Subsequent Miscellaneous Application filed by respondent No.3 was also rejected by the Labour Court on 17.10.1992. The State Government had taken proceedings against respondent No.3-Company by filing complaint before the Magistrate. Respondent No.3 filed an application in the complaint for setting aside the Prosecution. That application filed by respondent No.3 in the aforesaid complaint was rejected by the Magistrate. That order was challenged by respondent No.3, by way of revision before the Additional Sessions Judge and that revision was allowed and, ultimately, complaint was dismissed on the ground that the complaint was barred by limitation. By filing this petition, it is prayed that the State may be directed to take appropriate proceedings in connection with challenging the said order passed by the Additional Sessions Court in the Criminal Revision Application No.30 of 1995.

3. So far as this Court is concerned, while deciding the Special Civil Application, this Court cannot give any such direction, as it was open for the petitioner to challenge the said order of the Sessions Court by filing appropriate application as per the provisions of the Code of Criminal Procedure. So far as prayer contained in paragraph 6.A is concerned, if it is permissible to the petitioner, he may take appropriate proceedings under the provisions of the Code of Criminal Procedure. No such relief can be granted by this Court in this Special Civil Application.

4. So far as the other prayer regarding

implementation of the Award is concerned, Mr.Gadia, learned Advocate for respondent No.3, submitted that the company is closed and this being a Private Company, this Court cannot give any direction under Article 226 of the Constitution of India. Mr.Sheth, learned AGP, submitted that it is for the petitioner to take appropriate proceedings for executing the Award in question, by filing proceedings for execution of the Award of the Labour Court under Section 33-C of the I.D. Act.

Accordingly, the petitioner is permitted to take appropriate proceedings for execution of the Award in question by moving the appropriate forum under the I.D. Act under Section 33-C of the Act. If any such application is made, the appropriate Court may decide the same expeditiously and in accordance with law.

5. Subject to what is stated above, the petition is rejected. Rule is discharged. No costs.

12th December, 2003 (P.B. Majmudar, J.)

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(apj)